

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky No. 15-43828 (MER)

JAMES ALAN ROTHERS,
Debtor.

Chapter 7

**NOTICE OF HEARING AND MOTION FOR ORDER
AUTHORIZING RULE 2004 EXAMINATION**

TO: U.S. BANKRUPTCY COURT, UNITED STATES TRUSTEE, DEBTOR – JAMES ALAN ROTHERS, AND HIS ATTORNEY, SAM CALVERT, 1011 2ND STREET N., SUITE 107, ST. CLOUD, MN 56303 and KRISTI GIESE, 1108 SE 2ND STREET, WILLMAR, MN 56201; AND ALL PARTIES IN INTEREST.

NOTICE OF HEARING

1. J. Richard Stermer, the Chapter 7 Trustee (the “Trustee”) in the above-referenced bankruptcy case, moves the court for authorization to conduct a Bankruptcy Rule 2004 examination of KRISTI GIESE and gives notice of hearing.

2. The Court will hold a hearing on this Motion on **February 15, 2017, at 9:30 a.m.** or as soon thereafter as counsel may be heard, before the Honorable Michael E. Ridgway, U.S. Bankruptcy Court Judge, U. S. Courthouse, 7th Floor, Courtroom 7 West, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this Motion must be filed and served not later than February 10, 2017, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays).

UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

MOTION

1. Trustee, J. Richard Stermer, moves the Court for an Order allowing 2004 Examination of KRISTI GIESE regarding the Debtor's financial affairs and her business interests in ABC BIN CO, LLC.
2. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Motion arises under Bankruptcy Rule 2004. This Motion is filed under Local Rule 2004-1.
3. This Chapter 7 Bankruptcy case was commenced by a Petition filed on November 3, 2015. J. Richard Stermer was appointed as the Chapter 7 Bankruptcy Trustee. The Meeting of Creditors was held on December 23, 2015.
4. The Trustee has discovered that the Debtor's Chapter 7 Bankruptcy Petition and Schedules contain a significant amount of missing, misleading, or false information concerning the debtor's assets, transfers of assets, and interests that the debtor owned in numerous business entities. Debtor scheduled an interest in ABC Bin Co., LLC in the Statement of Financial Affairs. Debtor disclosed much later in this proceeding that he sold his interest in ABC Bin Co., LLC for \$500,000 in 2013 to Ramaldillo Casillas Guzman. ABC Bin Co., LLC sued the debtor in 2014 and obtained a \$600,000 default judgment against the Debtor. ABC Bin Co., LLC has not filed a proof of claim in this pending bankruptcy. Trustee has been told by Attorney Todd Kleinhuizen, who represented ABC Bin Co., LLC in the 2015 Swift County litigation against Debtor, that Kristi Giese now owns and manages ABC Bin Co., LLC.
5. The Trustee moves the Court for authorization to conduct Bankruptcy Rule 2004 Examination of Kristi Giese – Owner and Manager of ABC BIN CO., LLC.
6. Bankruptcy Rule 2004 Examination of the above-referenced individual is necessary in order for the Trustee to properly investigate and administer this bankruptcy estate.

Dated: January 25, 2017.

STERMER & SELLNER, CHARTERED

/e/ J. Richard Stermer

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VERIFICATION

I, J, Richard Stermer, the Trustee and moving party named in the foregoing notice of hearing and motion declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: January 25, 2017.

/e/ J. Richard Stermer

J. Richard Stermer

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

JAMES ALAN ROTHERS,

BKY No. 15-43828 (MER)

Debtor.

UNSWORN CERTIFICATE OF SERVICE

The undersigned, Jacquelyn K. Eggers, an employee of Stermer & Sellner, Chtd, 102 Parkway Drive, P.O. Box 514, Montevideo, MN 56265, declares under penalty of perjury that on January 25, 2017, I served the NOTICE OF HEARING AND MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATION of CHRIST GIESE by first class U.S. Mail addressed to each entity named on the attached SERVICE LIST.

Executed on : 01/25/2017

Signed: /s/ Jacquelyn K. Eggers

J. Richard Stermer, ID# 216811
P.O. Box 514, Montevideo, MN 56265
Telephone: (320) 269-6491

JAMES ALAN ROTHERS BKY # 15-43828 (MER)
SERVICE LIST 1/25/2017

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky No. 15-43828 (MER)

JAMES ALAN ROTHERS,

Chapter 7

Debtor.

**ORDER AUTHORIZING RULE 2004 EXAMINATION
PURSUANT TO FED. R. BANKR. P. 2004**

This matter came before the Court on the Motion of J. Richard Stermer, Trustee, to allow him to conduct an examination pursuant to Federal Rule of Bankruptcy Procedure 2004.

Based on the files and records,

IT IS HEREBY ORDERED:

The Trustee, J. Richard Stermer, may examine KRISTI GIESE, herein pursuant to Federal Rule of Bankruptcy Procedure 2004.

Dated:

BY THE COURT:

Michael E. Ridgway
United States Bankruptcy Judge